

## **REMARKS/ARGUMENTS**

The preceding amendments and following remarks are submitted in response to the non-final office Action mailed November 1, 2006, setting a three month shortened statutory period for response ending February 1, 2007. With this Amendment, claims 9-10, 12, 16-17, 19-21, and 26 have been amended, and claim 28 has been cancelled. Claims 1-12, 16-17, 19-27, and 29-37 remain pending in this Application. Reconsideration, examination and allowance of all pending claims are respectfully requested.

### **35 U.S.C. § 112 Rejections**

On page 2 of the Office Action, the Examiner rejected claim 28 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. More specifically, the Examiner maintains that “[i]t is still unclear what Applicant is trying to claim, despite the amended claim.”

Applicants respectfully assert that claim 28 is not indefinite. However, in order to move prosecution along in this case, Applicants have cancelled claim 28, obviating the Examiner’s rejection of this claim under § 112, second paragraph.

### **35 U.S.C. § 102 Rejections**

On page 2 of the Office Action, the Examiner rejected claims 1-8 under 35 U.S.C. § 102(e) as being anticipated by *Griffin et al.* (U.S. Patent Publication No. 2003/0125751). On page 4 of the Office Action, the Examiner further rejected claim 25 under 35 U.S.C. § 102(e) as being anticipated by *Griffin et al.* (U.S. Patent Publication No. 2003/0125751). Applicants respectfully traverse these rejections.

The *Griffin et al.* reference appears to disclose a distal nose (202) made of a relatively hard material that is disposed at the distal end of a relatively soft polymeric member (31). As can be seen in Figure 49, for example, the distal nose (202) is located within the distal-most portion of the polymeric member (31), and does not appear to extend distally of the polymeric member (31).

Independent claim 1, in contrast, recites a medical device including a tip having a first portion having a distal taper and a radially inextensible ring distal of the first portion. Such configuration is different than that taught by *Griffin et al.*, in which the distal nose (202) is embedded within the distal-most portion of the polymeric member (31) and does not appear to extend distal of the polymeric member (31). Thus, since *Griffin et al.* does not appear to teach this claimed feature, Applicants submit that claim 1 is not anticipated by that reference. In addition, for at least these reasons, Applicants submit that claims 2-7, which depend from claim 1, are also not anticipated by *Griffin et al.*

With respect to the rejection of claim 25, Applicants submit that *Griffin et al.* does not disclose or suggest a tip comprising a soft body portion and a rigid ring distal of the soft body portion, as recited in that claim. As discussed above, *Griffin et al.* appears to disclose a distal nose (202) of harder material embedded within the distal-most portion of a soft polymeric member (31). Nothing in that reference, however, suggests that the distal nose (202) is distal of the polymeric member (31). Consequently, Applicants assert that claim 25 is also not anticipated by *Griffin et al.*

### **35 U.S.C. § 103 Rejections**

On page 5 of the Office Action, the Examiner rejected claims 9-12, 16-17, and 19-23 under 35 U.S.C. § 103(a) as being unpatentable over *Griffin et al.* (U.S. Patent Publication No. 2003/0125751) in view of *Muni et al.* (U.S. Patent No. 5,316,706).

With this Amendment, Applicants have amended independent claim 9 to now recite a radially inextensible distal portion of the tip distal of the elastic portion. Antecedent support for this amendment can be found, for example, in Figure 3 of the Application, which shows a radially inextensible distal portion (210) distal of an elastic portion (208).

Unlike amended claim 9, the *Griffin et al.* reference does not disclose or suggest a radially inextensible distal portion distal of an elastic portion. Instead, as discussed above, *Griffin et al.* appear to suggest a distal nose (202) of harder material embedded within the distal-most portion of a soft polymeric member (31). The *Muni et al.* reference likewise fails to disclose or suggest this feature. Accordingly, Applicants submit that the cited references do not disclose each and every element necessary to

support a *prima facie* case of obviousness against claim 9. In addition, for at least these reasons, Applicants submit that claims 10-12, 16-17 and 19-23, which depend from amended claim 9, are also not obvious over the cited references.

On page 8 of the Office Action, the Examiner rejected claims 26-28 under 35 U.S.C. § 103(a) as being unpatentable over *Griffin et al.* (U.S. Patent Publication No. 2003/0125751) in view of *Muni et al.* (U.S. Patent No. 5,316,706).

With this Amendment, Applicants have amended independent claim 26 to now recite that the elongate catheter includes an annular wall defining a lumen having a transverse dimension that varies in size along a distal portion of the elongate catheter. Antecedent support for this amendment can be found, for example, on page 5, line 16 to page 6, line 4 of the Application, and in Figure 3. Applicants assert that this claim amendment introduces no new matter into the Application, and is readable upon the previously elected Group.

Neither *Griffin et al.* nor *Muni et al.* appear to disclose or suggest an elongate catheter including an annular wall defining a lumen having a transverse dimension that varies in size along a distal portion of the elongate catheter, as recited in amended claim 26. In *Griffin et al.*, the size of the guidewire lumen appears to be substantially uniform along the distal portion of the polymeric member (31). The *Muni et al.* reference likewise fails to disclose or suggest this claim limitation. Accordingly, amended claim 26 is believed to be patentable over the *Griffin et al.* in view of *Muni et al.* In addition, for at least these reasons, Applicants submit that dependent claim 27 is also not obvious over the cited references.

Reexamination and reconsideration are respectfully requested. It is submitted that all pending claims are currently in condition for allowance. Issuance of a Notice of Allowance in due course is anticipated. If a telephone conference might be of assistance, please contact the undersigned attorney at 612.677.9050.

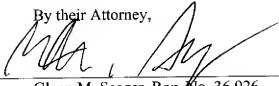
Respectfully submitted,

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By their Attorney,

Date:

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